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This conference on the participation of the private sector in developing and operating transportation facilities can make valuable contributions to the future of an effective surface transportation program in America. We face a wide array of challenges in improving our transportation system, and we need to take full advantage of the wealth of knowledge in the private sector about designing projects, completing construction quickly, encouraging private financing, and bringing together the coalitions needed to carry out large, multi-modal projects.

Traditionally, the private sector's role in transportation projects has been limited to serving as a contractor, on a fee-for-service basis, to plan, design or construct a transportation project, on the basis of specifications developed by a public agency. The public-private partnership concept covers a range of possible arrangements for greater private participation, ranging from design-build contracts to private ownership and operation of transportation facilities.

The bill enacted last August to reauthorize our federal transportation programs, known as SAFETEA-LU, included a number of provisions to facilitate private participation in transportation projects.

First, SAFETEA-LU expanded two existing programs, which have been used to finance public-private ventures.

The Transportation Infrastructure Finance and Innovation Act, known as TIFIA, is a federal credit assistance program for projects that don't fit neatly into the federal-aid highway program. In SAFETEA-LU, the eligibility for TIFIA assistance was expanded to include private rail facilities which provide public benefits for highway users, and intermodal freight transfer facilities.

Another program which pre-dates SAFETEA-LU is State Infrastructure Banks, or SIBs, which allow States to use a portion of their highway funds to make loans for highway projects, including those with private participation. Before SAFETEA-LU, the SIBs program was a pilot program, and not all States were eligible. SAFETEA-LU makes SIBs a permanent program and extends the eligibility to all 50 States.

SAFETEA-LU also expanded the authority of States to issue so-called "private activity" tax-exempt bonds for transportation projects with private participation. The

States are authorized to issue \$15 billion of these private-activity bonds over the next five years. Eligibility for the bonds is expanded to cover freight intermodal transfer facilities for rail and truck.

On the transit side, SAFETEA authorizes a pilot program of up to three public-private partnerships for fixed guide way projects. The Secretary of Transportation will submit a report on this program, evaluating the costs, benefits and efficiencies of the projects.

SAFETEA-LU also included \$ 1.8 billion for projects of national and regional significance, known as mega-projects. These are relatively costly projects which enhance the national transportation system, including projects which reduce congestion and bottlenecks for long-haul freight. Some of these projects may have substantial private participation. A leading example is the CREATE project in Chicago in which railroads are expected to invest more than \$200 million. CREATE will help relieve the serious congestion which occurs around Chicago country driving up the prices of cross country shipments. To move a freight container by rail from Los Angeles to Chicago costs \$300; to move it through the city of Chicago itself costs another \$300; and once it's through the city, it only costs another \$200 to ship it to the East Coast. It would benefit the Nation and consumers to be able to ship these goods more quickly and more cheaply through the city. SAFETEA-LU makes \$1.8

billion available for 25 mega-projects, including, in addition to CREATE, Alameda Corridor East, the New York Harbor rail tunnel, and the Union Depot Multimodal Transit Facility in St. Paul.

I have been an enthusiastic supporter of these SAFETEA-LU programs to encourage private participation in transportation projects. I have been much less enthusiastic about other provisions in SAFETEA-LU which are designed to encourage private participation through increased reliance on tolling to support new highway construction. While tolls can be used as source of revenue for public roads owned and operated by the States and cities, there is also considerable interest in the private sector in having private companies participate in building new roads and then recouping their costs and hopefully realizing profits from toll revenues.

I am disturbed by the trend toward increased reliance on tolling to finance new construction and reduce congestion.

Tolls have an element of inequity. Drivers paying tolls are also paying a gas tax for each mile driven on a toll road, so these drivers are in a sense paying twice. Tolls averaged out on a per mile basis tend to have a much higher cost per mile than the gas tax.

In addition, the burden on low-income drivers is disproportionately heavy. I am not persuaded by the argument that toll roads benefit low-income drivers because the toll road drains away some of the traffic from the non-tolled roads and eases traffic congestion for everyone, including low-income drivers. Nor am I convinced that low-income drivers are just as willing and able to pay tolls as higher income drivers. When your budget is tight, every dollar that goes to transportation, including paying tolls, is a dollar that is not available to buy food, pay rent, or pay for health care. If there is no other way to build highway capacity than through a toll way, then very exact, transparent provisions must be included to assure equity.

In addition, where tolling is expanded -- even in pilot programs -- we should expressly insure that the terms of an agreement for a toll project between a state or local transportation agency and a private investor do not prevent the public agency from building other projects to address pressing traffic needs.

This has happened in the past. California State Road 91 between Los Angeles and Riverside was constructed using private financing; it included a “non-compete” clause enacted by the legislature, which prohibited the state from expanding the capacity of adjacent highways. When traffic diverted to nearby non-toll roads, the state was powerless to make necessary highway improvements.

In SAFETEA-LU, I, and like-minded colleagues, worked to ensure that the provisions allowing increased tolling included protection against the inequities inherent in tolls. In the pilot program for use of tolls to fund new construction on the Interstates, we included a requirement that the State could not enter into a non-compete clause which would prevent the State from improving or expanding adjacent roads, when necessary to reduce worsened congestion or safety problems. In the program for establishing tolls in HOV lanes, we included a provision that if the tolls generated a profit, priority should be given to using those profits to finance transit and safety.

While these provisions will help, I still believe that tolling is much less equitable and efficient than our user-fee program with five decades of proven success in which all users contribute, and the revenues are used to develop a national transportation system. When the Trust Fund was established in 1956, Congress examined highway needs and options for financing the system, including the feasibility of toll roads and the Clay Commission's proposal to create a Federal corporation to issue long-term bonds to finance construction of the Interstate. In 1956, Congress, working with President Eisenhower, imposed a three-cent per gallon federal excise tax on motor fuels (commonly known as the gas tax), the revenues from which were to be deposited into a Highway Trust Fund. This would be the pay-as-you-go system to finance Interstate construction.

The conclusion Congress reached in reviewing the options was that an ambitious highway construction program could not be successfully launched without a steady stream of dedicated revenue to support the program. Highway projects take a long time to plan, design, and build, even in the early years of the federal program when the process did not include environmental review. Moreover, the dedicated revenue stream needed to provide: stability, continuity, sustainability, and, most importantly, certainty to the process of building our highways. The gas tax did that, and continues to do so to this day.

Moreover, the gas tax was, and continues to be, a fair and equitable method of financing development of our highways. The tax is paid by all users of the system, and, although the system is not perfect, the amount of tax each user pays is generally equivalent to miles driven and use made of the system. That's why Congress and President Eisenhower adopted the pay-as-you-go gas tax financing system and did not establish a national Interstate system of tolls or bond financing.

Unfortunately, in recent years the gas tax has been undermined by an unwillingness of the Administration to make necessary adjustments in the tax to take account of inflation. Prior Administrations, both Democratic and Republican, have been willing to do this. The gas tax is a flat tax; it does not yield greater revenue when

the price of gas goes up. The yield increases only with greater gas consumption. Therefore, periodically the user fee must be increased by Congress and the Executive Branch to stay ahead of erosion of the construction dollar. For most federal taxes, which are imposed as a percentage, such as the airline ticket tax, income tax, or social security tax, increases in revenues for inflation are automatic. But the current Administration has insisted that indexing the gas tax for inflation would be a tax increase, which is contrary to Administration policy.

As a result since 1993 it has been politically impossible to increase user fees.

When we began work on reauthorization in 2002, it became apparent that, because of the failure to adjust for inflation, Trust Fund revenues were not sufficient to support a reasonable program to make modest improvements in the performance of our transportation system. The Administration's own studies indicated a need for a program of \$375 billion over six years, and our Committee unanimously reported a bill at this level without any adjustment to the basic gas tax. The Administration threatened to veto this bill and, as a result, the House Leadership would not allow the Committee to bring the bill to the House Floor for an up or down vote. The program ultimately authorized in SAFETEA-LU was much less: \$286.5 billion over six years.

Inflation has seriously eroded the purchasing power of gas tax revenues. Over the decade, before SAFETEA-LU, the gas tax had lost more than one-quarter (27.5 percent) of its purchasing power. In the year 2005, one dollar in the Highway Trust Fund is equal to about 46 cents in 1980 and about 21 cents in 1970. Restoring the purchasing power of the gas tax to the level it equaled in 1993 would require an increase of about 5.5 cents a gallon. Preserving this purchasing power by indexing the gas tax to adjust it for inflation would increase the tax by about ½ cent per gallon per year.

For the future, even with inflation adjustments, the gas tax may be inadequate to fund the transportation programs we need. During the next few years, the gas tax financing mechanism could be adversely affected by future increased fuel efficiency. Over the past 15 years, the fuel economy of the total passenger fleet has remained static (and has actually declined slightly since 1987). In 2004, the average fuel economy of the U.S. passenger fleet was 20.8 miles per gallon. However, although fuel economy has remained stagnant to date, the introduction of hybrid and other alternative fuel vehicles holds promise of significantly increasing fuel economy in the near future. While increased fuel economy is better for our environment, as fuel economy increases gas taxes collected will decrease. Thus, fuel economy increases, together with possible changes in the fleet mix of passenger vehicles (e.g., decreased

percentages of SUVs and light trucks which currently represent 48 percent of sales); present a concern for the long-term viability of the gas tax as a financing mechanism.

Over the next few years, we need to consider alternatives to the gas tax. I would like to discuss several concepts which are worthy of serious consideration.

WEIGHT- OR VEHICLE-DISTANCE TAX

A weight- or vehicle-distance tax is a possible supplement or alternative to the gas tax.

Heavy trucks do a great deal of damage to our highways and bridges. The question has been raised as to whether truckers pay their fair share for the use of the infrastructure.

For many years, Oregon has had a weight-distance tax on trucks. The Oregon Department of Transportation (ODOT) believes it is better to charge trucks according to their use. But truckers always view this type of tax with suspicion. They believe this is a subtle method to shift the overall transportation funding burden to them and an indirect way to raise their highway tax.

Passenger vehicles such as cars, pick-up trucks, SUVs, motorcycles, vans, and minivans pose a different problem. While they don't wear out the highways and bridges to the extent that heavy trucks do, they tend to clog the roads by their sheer numbers. This is a problem that gas tax indexing does not address.

A user fee based on the distance traveled may approximate more closely the use by passenger vehicles regardless of the price of gas or the fuel economy of the vehicles.

This type of tax tends to raise the thorny issue of privacy, especially when the distance traveled or perhaps even the location of the vehicle is recorded and transmitted electronically as part of the tax calculation.

Next March, the Oregon Department of Transportation will begin a pilot program to examine the feasibility of such a road user fee. A GPS device will track the miles traveled, with the information stored on board the vehicle. During fill ups, the mileage data are transmitted using short-range radio frequency and a computer will calculate the proper user fee. The fee is added to the fuel purchase and charged at the pump. To protect privacy, no vehicle location information is stored in the vehicle and only the data on mileage are transferred – and only during refueling. Although

this seems like an elaborate arrangement to protect driver privacy, the efficacy of the system will be evaluated during the pilot program.

AD VALOREM FUELS TAX

As noted earlier, increased fuel efficiency presents a concern for the long-term viability of the gas tax as the primary source of funding for the Highway Trust Fund. Without any change in the current system, more fuel efficient cars and trucks could congest our roads without helping to adequately finance additional capacity to relieve congestion.

There are proposals to change our gas tax from a fixed price per gallon to an ad valorem tax that is keyed to the amount of sale. As countries such as China and India step up their economic and industrial development, they compete for a larger share of the world's limited oil supply and drive up the price of oil. Under an ad valorem tax system, as the price of motor fuels goes up, more revenues will be generated for the Trust Fund at the same percentage tax rate.

A difficulty with this tax is that with the price of fuel so variable, it would be difficult to forecast annual revenues for a percentage tax. This, in turn, would create uncertainties as to how much funding the states would get each year.

BROAD-BASED ENERGY TAX

As technologies develop and mature, more alternative-fuel vehicles will be traveling on our highways. Alternative-fuel vehicles are often charged a lower tax rate than gasoline- or diesel-powered vehicles. Liquefied natural gas, for example, is taxed at the equivalent of 11.9 cents per gallon, and liquefied petroleum gases (propane) are taxed at the equivalent of 13.6 cents per gallon. Similarly, until last year, ethanol was taxed at a reduced rate that significantly affected Trust Fund revenues and the ethanol-user states like Minnesota. Other vehicles, such as fuel cell buses that run on hydrogen, pay no tax at all.

As the number of alternative fuel vehicles grows, we need to ensure that energy policy goals, such as promoting alternative fuels are balanced with their potential effect on the highway financing system. A broad-based tax on the energy of the fuel used may be an option. A number of questions immediately come to mind with such an idea. Which fuels should be included in the system? What method should be used to put them on equal footing so different fuels as well as different classes of vehicles would be paying their fair shares? How could the tax be collected without too much bureaucracy or cost?

CONCLUSION

Private participation in the planning, design and financing of transportation projects, is a very valuable part of our transportation system. This is particularly the case for large projects which include elements not ordinarily funded by federal highway and transit programs. But I also believe that we need continued public support for our basic system of roads and transit, through broadly based user charges. This is the combination that I have tried to achieve in SAFETEA-LU and will try to improve as we move ahead with implementation of SAFETEA-LU and, in five years, reauthorizing the program. I look forward to the substantial contribution which this meeting and others in the future will make to our efforts.